

Response dated 04/04/2005
Response to Office Action mailed 03/02/2005

Application No. 10/789,830

REMARKS

Applicant provisionally elects, without traverse, to prosecute the invention of Group I, claims 1-15 and 19, which is directed to a nutritional composition. Although the Office Action characterizes the invention of Group I as being directed to a nutritional composition derived from soybeans, Applicant respectfully submits that the invention of independent claim 1 is not limited to a composition derived from soybeans but may be derived from any appropriate source. Applicants' election is without prejudice or admission with respect to Applicants' right to re-file the withdrawn claims in a divisional application.

Upon entry of this amendment, claims 1-15 and 19 are pending. Claim 1⁶ has been amended to correct that the claim depends from claim 1. Claims 16-18 and 20 are withdrawn.

The Office Action also includes a species requirement that Applicant respectfully traverses. Although the Office Action includes a species requirement, it does not list species or identify which species are alleged to be patentably distinct. Applicant respectfully traverses the species requirement because the claims do not recite a multiplicity of species and will not require an unduly extensive and burdensome search. Applicants also traverse the species requirement to the extent it imposes a requirement on Applicants to present amended subject matter different from Applicants' invention. For example, the Office Action requires election of species for the protein source, but does not identify protein sources, only amino acids, which are the building blocks of proteins not necessarily sources of protein as contemplated by the claimed invention. The claimed invention is not limited to protein in the form of amino acids but also includes any form of protein (e.g., intact protein).

To provide a complete response, and based on Applicant's understanding of the species requirement, Applicant makes the following election of species with traverse. With respect to the protein source, Applicant elects methionine, as recited in claims 4 and 14. With respect to the phospholipids, Applicant elects phosphatidylcholine, as recited in claims 5 and 13. With respect to the vitamins, Applicant elects vitamin C, as recited in claims 6 and 8. With respect to the minerals, Applicant elects magnesium, as recited in claims 7 and 15. Applicant believes that claims 1-15 and 19 read on (are generic to) the elected species.

Reconsideration of the species requirement is respectfully requested. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the

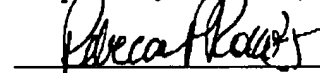
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present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below.

Date: April 4, 2005

Respectfully submitted,



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